

229394

BEFORE THE  
SURFACE TRANSPORTATION BOARD

ENTERED  
Office of Proceedings

APR 26 2011

PROVIDENCE AND WORCESTER  
RAILROAD COMPANY, )

Finance Docket No. 35393

Part of  
Public Record

**REPLY OF PROVIDENCE AND WORCESTER RAILROAD COMPANY TO  
NATIONAL GRID'S MOTION FOR LEAVE TO FILE A REPLY TO A REPLY**

Providence and Worcester Railroad Company ("P&W") hereby respectfully submits its Reply to National Grid's Motion for Leave to File a Reply to a Reply.

On March 30, 2011, National Grid filed with the Board a request that this proceeding be held in abeyance – purportedly because the parties were close to a voluntary resolution of the dispute underlying this proceeding. Remarkably, National Grid filed its request for a stay without consulting with or seeking the concurrence of P&W, the party with whom National Grid claimed it was about to conclude an agreement. On April 18, 2011, P&W filed its Reply, opposing the requested stay on the grounds that (1) the parties were not close to a voluntary resolution, and (2) holding this proceeding in abeyance would prejudice P&W by further delaying the resolution of this two-year old dispute.

National Grid has now submitted a motion for leave to file a nine-page Reply to a Reply in order to argue – yet again – that a voluntary resolution with P&W is imminent, despite P&W's belief to the contrary. In addition, National Grid's proposed Reply to a Reply also includes a lengthy and gratuitous reargument of its position regarding M.G.L. c.164, § 73, and a completely self-serving and irrelevant "chronology" of negotiations between the parties that conveniently omits any mention of the year and a half of

unsuccessful “negotiations” that preceded P&W’s request for declaratory relief in this proceeding.<sup>1</sup>

National Grid’s attempt to reargue its position in the guise of a Reply to a Reply is an abuse of the Board’s rules and procedures, and an apparent attempt to complicate this proceeding and further delay the resolution of the underlying dispute. National Grid’s motion to hold this proceeding in abeyance raises only one question – whether there is any reason to stay this proceeding. That National Grid filed its motion without consulting P&W – the party with whom National Grid claims it is about to reach an agreement – belies National Grid’s contentions that a resolution is imminent and that a stay of this proceeding would serve to encourage such a resolution. To the contrary, P&W believes that a stay of this proceeding would make such a resolution less likely and would be prejudicial to P&W, for the reasons outlined in P&W’s Reply to National Grid’s request for a stay. Thus, the opposing positions of P&W and National Grid with respect to the likelihood of a voluntary agreement and the purported benefits of a stay of this proceeding have already been clearly stated.

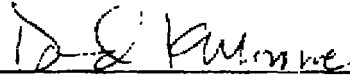
National Grid’s attempt to reargue in its proposed Reply to a Reply both its position regarding the likelihood of a resolution and its position on the merits of the underlying dispute is inappropriate. National Grid’s tactics do not appear to further the resolution of the dispute underlying this proceeding, but to delay it. The Board should

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<sup>1</sup> P&W will not address the specific assertions and legal arguments advanced in National Grid’s proposed Reply to a Reply or seek to reargue its position regarding the underlying dispute because to do so here would be inappropriate under the Board’s rules. Suffice it to say, P&W strongly disagrees with the assertions and legal arguments in National Grid’s proposed Reply to a Reply.

not countenance such tactics, and should accordingly deny National Grid's motion for leave to file a Reply to a Reply.<sup>2</sup>

Respectfully submitted,



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DATE: April 26, 2011

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<sup>2</sup> The Board should also strike and remove from the record in this proceeding National Grid's proposed Reply to a Reply.

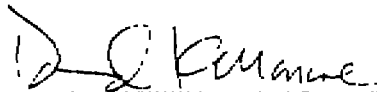
CERTIFICATE OF SERVICE

I do hereby certify that I have delivered a true and correct copy of the foregoing document to the following addressees at the addresses stated by depositing same in the United States mail, first class postage prepaid, or by email transmission, this 26<sup>th</sup> day of April 2011:

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